

CITY OF BATAVIA BUSINESS MINUTES AUGUST 8, 2022

The regular business meeting of the City Council was held Monday, August 8, 2022 at 8:14 PM in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Jankowski presiding.

Present were Council President Jankowski and Councilmembers Viele, Pacino, Canale, McGinnis, Briggs, Schmidt, Richmond and Bialkowski.

Council President Jankowski called the meeting to order at 8:14 PM immediately following the conference meeting.

The minutes from the July 2022 meetings and the June 2022 financials were approved.

The Council President assigned the agenda items.

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City Attorney's Report

Mr. Van Nest noted that they continued to work on a variety of matters but there was nothing specific to report at that time.

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City Manager's Report

Rachael Tabelski noted that there was nothing to report at this time.

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Committee Reports

Councilmember Pacino noted that the BID was having an Italian festival on August 20th and soap box derby on August 27th.

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Unfinished Business

None.

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New Business

#69-2022

A RESOLUTION TO APPROVE AN AGREEMENT - MEMORANDUM OF UNDERSTANDING WITH GENESEE COUNTY

Motion of Councilmember Canale

WHEREAS, the Director of Public Works did present an agreement with Genesee County for the use of the Southwest Corner of Austin Park as a construction staging area; and

WHEREAS, the City of Batavia and Genesee County are desirous of working together to provide a construction staging area for the awarded contractor (Montante Construction) during the Genesee County Jail Restoration project; and

WHEREAS, the Agreement between the City and Genesee County for this collaborative service would be effective July 12, 2022 and expire July 12, 2023.

NOW, THEREFORE, BE IT RESOLVED, that the City Council President for the City of Batavia is hereby authorized to sign a Memorandum of Understanding between the City of Batavia and Genesee County.

Seconded by Councilmember Schmidt and on roll call approved 9-0.

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#70-2022

A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE ACQUISITION OF A FIRE TRUCK, THE EXPENDITURE OF SUMS FOR SUCH PURPOSE, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

Motion of Councilmember Bialkowski

WHEREAS, the **CITY OF BATAVIA** (the “City”), in the County of Genesee, by its City Council has determined it necessary for the City, to purchase a new 2023 Spartan ER Rescue Pumper Fire Truck (the “Fire Truck”) to replace a failing piece of equipment; and

WHEREAS, the estimated total cost of the Fire Truck acquisition is \$801,681.00, which is to be financed in part by the City through use of the Fire Department Reserve funds in an amount not less than \$36,681.00, in part by a loan from the United States Department of Agriculture (“USDA”) in an amount not to exceed \$665,000.00 (the “USDA Loan”), and in part by a grant from the USDA not to exceed \$100,000.00 (the USDA Grant”).

WHEREAS, the City will issue general obligation bonds in an amount equal to the USDA Loan to provide security for the loan, which shall be issued in accordance with the New York State Local Finance Law (the “LFL”) and fully registered as to both principal and interest in the United States of America, acting through the Rural Housing Service.

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the City Council of the City of Batavia, Genesee County, New York, as follows:

Section 1. The acquisition of the Fire Truck is hereby authorized in an aggregate principal amount up to \$801,681.00 (the “Specific Object or Purpose”).

Section 2. The Specific Object or Purpose are objects and/or purposes described in Subdivision 27 of Paragraph (a) of Section 11 of the LFL.

Section 3. The plan for the financing of such maximum estimated cost is by the issuance of general obligation serial bonds of the City in an aggregate principal amount not exceeding the USDA Loan amount is hereby authorized to be issued therefor pursuant to the LFL.

Section 4. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five (5) years.

Section 5. It is hereby determined that the period of probable usefulness of the Fire Truck is twenty (20) years, pursuant to Subdivision 27 of Paragraph (a) of Section 11.00 of the LFL. It is hereby further determined that the maximum maturity of the bonds herein authorized will not be in excess of twenty (20) years.

Section 6. The faith and credit of the City of Batavia, Genesee County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in every year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year.

Section 7. Subject to the provisions of this resolution and of the LFL and pursuant to the provisions of LFL Sections 21.00, 50.00, 56.00 to 60.00, 62.00 and 63.00, the powers and duties of the City Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized are hereby delegated to the City Manager, the chief fiscal officer of the City.

Section 8. All other matters except as provided herein relating to the bonds or notes herein authorized including the date, denominations, maturities and interest payment dates, within

the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the City Manager, as the chief fiscal officer of the City. Such bonds shall contain substantially the recital of validity clause provided for in LFL Section 52.00 and shall otherwise be in such form and contain such recitals, in addition to those required by LFL Section 51.00, as the City Manager shall determine, consistent with all applicable LFL provisions.

Section 9. The City Manager is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 10. The City Manager is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

Section 11. The validity of such bonds may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 12. The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the LFL for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent

made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 1 of this resolution. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2 and any other provision of the Internal Revenue Code or Internal Revenue Service Regulations relating to the qualification for reimbursement of costs related to the Specific Object or Purpose. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 13. This resolution shall take effect immediately.

Section 14. This resolution or a summary hereof shall be published in full in the official legal newspaper of the City for such purposes, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the LFL.

Seconded by Councilmember Pacino and on roll call approved 9-0

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#71-2022

A RESOLUTION AUTHORIZING THE BATAVIA REVOLVING LOAN FUND GRANT AWARD AND AUTHORIZING EXECUTION OF A PARTICIPATION AGREEMENT

Motion of Councilmember Richmond

WHEREAS, the City Council for the City of Batavia amended the Revolving Loan Fund Agreement on April 8, 2019; and

WHEREAS, according to the amendment, notwithstanding any other provisions of the Revolving Loan Fund Agreement, the Loan Fund may also, on a project specific basis and with City Council approval, make a grant for an eligible project or funding purpose within the City; and

WHEREAS, the City Council for the City of Batavia enacted a policy to allow for grant funds to be accessed for specific purposes including Brownfield Opportunity Area (BOA) advancement, City Priority Economic Development, and Building Improvements; and

WHEREAS, AGRV Properties, Inc. has submitted a completed application for grant funds to the Batavia Development Corporation, the Batavia Development Corporation has acknowledged receipt of the application and application fee, received the deed to the property, the project financials, reviewed and scored the project, and advanced the project to the City Council of the City of Batavia to review; and

WHEREAS, AGRV Properties, Inc. intends to complete improvements of the property located at 109-111 Main Street using funds to be provided through the Program; and

WHEREAS, The City of Batavia will distribute grant funds to AGRV Properties, Inc. for the project in accordance with the terms and conditions of the City of Batavia Revolving Loan Fund Grant Policy and the Grant Agreement; and

WHEREAS, after evaluation of the application, based on the Grant Policy, the City of Batavia City Council finds that the award of the grant to be consistent with the policy and in the interest of the City of Batavia.

NOW, THEREFORE, BE IT RESOLVED, that the City of Batavia City Council approves granting \$20,000 to the project; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City of Batavia City Council authorize the City Council President to execute the Grant Agreement with AGRV Properties, Inc.

Seconded by Councilmember Viele and on roll call approved 9-0.

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#72-2022

A RESOLUTION AUTHORIZING THE BATAVIA REVOLVING LOAN FUND GRANT AWARD AND AUTHORIZING EXECUTION OF A PARTICIPATION AGREEMENT

Motion of Councilmember Viele

WHEREAS, the City Council for the City of Batavia amended the Revolving Loan Fund Agreement on April 8, 2019; and

WHEREAS, according to the amendment, notwithstanding any other provisions of the Revolving Loan Fund Agreement, the Loan Fund may also, on a project specific basis and with City Council approval, make a grant for an eligible project or funding purpose within the City; and

WHEREAS, the City Council for the City of Batavia enacted a policy to allow for grant funds to be accessed for specific purposes including Brownfield Opportunity Area (BOA) advancement, City Priority Economic Development, and Building Improvements; and

WHEREAS, 73 on Rotary, LLC. has submitted a completed application for grant funds to the Batavia Development Corporation, the Batavia Development Corporation has acknowledged receipt of the application and application fee, received the deed to the property, the project financials, reviewed and scored the project, and advanced the project to the City Council of the City of Batavia to review; and

WHEREAS, 73 on Rotary, LLC. intends to complete improvements of the property located at 73 Main Street using funds to be provided through the Program; and

WHEREAS, The City of Batavia will distribute grant funds to 73 on Rotary, LLC. for the project in accordance with the terms and conditions of the City of Batavia Revolving Loan Fund Grant Policy and the Grant Agreement; and

WHEREAS, after evaluation of the application, based on the Grant Policy, the City of Batavia City Council finds that the award of the grant to be consistent with the policy and in the interest of the City of Batavia.

NOW, THEREFORE, BE IT RESOLVED, that the City of Batavia City Council approves granting \$20,000 to the project; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City of Batavia City Council authorize the City Council President to execute the Grant Agreement with 73 on Rotary LLC.

Seconded by Councilmember McGinnis and on roll call approved 9-0.

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#73-2022

A RESOLUTION AUTHORIZING THE BATAVIA REVOLVING LOAN FUND GRANT AWARD AND AUTHORIZING EXECUTION OF A PARTICIPATION AGREEMENT

Motion of Councilmember McGinnis

WHEREAS, the City Council for the City of Batavia amended the Revolving Loan Fund Agreement on April 8, 2019; and

WHEREAS, according to the amendment, notwithstanding any other provisions of the Revolving Loan Fund Agreement, the Loan Fund may also, on a project specific basis and with City Council approval, make a grant for an eligible project or funding purpose within the City; and

WHEREAS, the City Council for the City of Batavia enacted a policy to allow for grant funds to be accessed for specific purposes including Brownfield Opportunity Area (BOA) advancement, City Priority Economic Development, and Building Improvements; and

WHEREAS, 73 on Rotary, LLC. has submitted a completed application for grant funds to the Batavia Development Corporation, the Batavia Development Corporation has acknowledged receipt of the application and application fee, received the deed to the property, the project financials, reviewed and scored the project, and advanced the project to the City Council of the City of Batavia to review; and

WHEREAS, 73 on Rotary, LLC. intends to complete improvements of the property located at 79-81 Main Street using funds to be provided through the Program; and

WHEREAS, The City of Batavia will distribute grant funds to 73 on Rotary, LLC. for the project in accordance with the terms and conditions of the City of Batavia Revolving Loan Fund Grant Policy and the Grant Agreement; and

WHEREAS, after evaluation of the application, based on the Grant Policy, the City of Batavia City Council finds that the award of the grant to be consistent with the policy and in the interest of the City of Batavia.

NOW, THEREFORE, BE IT RESOLVED, that the City of Batavia City Council approves granting \$20,000 to the project; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City of Batavia City Council authorize the City Council President to execute the Grant Agreement with 73 on Rotary LLC.

Seconded by Councilmember Briggs and on roll call approved 9-0.

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#74-2022

A RESOLUTION TO INTRODUCE AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO INCLUDE RESTRICTIONS ON ANIMAL AND FOWL AND TO SCHEDULE A PUBLIC HEARING

Motion of Councilmember Briggs

BE IT RESOLVED that a proposed Ordinance entitled “**AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO INCLUDE RESTRICTIONS ON ANIMAL AND FOWL**” is introduced before the City Council of the City of Batavia, New York; and

BE IT FURTHER RESOLVED that copies of the aforesaid proposed Ordinance be laid upon the desk of each member of the City Council; and

BE IT FURTHER RESOLVED that the City Council hold a public hearing on said proposed Ordinance at the City Hall, One Batavia City Centre, Batavia, New York, at 7:00 P.M. on Monday, September 12, 2022; and

BE IT FURTHER RESOLVED that the City Clerk publish or cause to be published a public notice in the official newspaper of the City of said public hearing at least five days prior thereto.

Seconded by Councilmember Pacino and roll call approved 8-1. Councilmember Bialkowski voted no.

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#75-2022

RESOLUTION TO CREATE A POSITION OF GRANT ADMINISTRATOR

Motion of Councilmember Viele

WHEREAS, the City of Batavia is desirous of managing number grant projects for the Water Fund, Sewer Fund and General Fund and seeks to do so by creating a full-time Grants Administrator; and

WHEREAS, the Grant Administrator will be responsible for developing and implementing strategies for identifying funding opportunities, submitting requests, and optimizing the grants administration process; and

WHEREAS, the Grant Administrator will work with various departments to ensure administrative and financial compliance will grants; and

WHEREAS, the Grant Administrator will be the point of contact for the City between granting agencies and the City and will prepare and record all records need for reimbursement; and

WHEREAS, the position of Grant Administrator is not a current title in the CSEA contract however, via this resolution it will be added with a salary schedule in grade IX.

NOW, THEREFORE, BE IT RESOVLED, that the Council of the City of Batavia hereby authorizes the creation of said position.

Seconded by Councilmember McGinnis and on roll call approved 8-1. Councilmember Bialkowski voted no.

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#76-2022

A RESOLUTION TO DECLARE A NEGATIVE DECLARATION UNDER SEQR FOR THE JACKSON STREET WATER PROJECT

Motion of Councilmember Bialkowski

WHEREAS, the City of Batavia is undertaking a CDBG Project No. 82PW9421-01 (Batavia Jackson Street Improvements Project); and

WHEREAS, in accordance with the New York State Environmental Quality Review regulations (SEQR), the City Council of the City of Batavia announced its intent to serve as Lead Agency on June 13, 2022, to conduct an environmental review of proposed watermain improvements along Jackson Street between Ellicott Street and Chestnut Street; and

WHEREAS, the proposed project involves the replacement of existing 4-inch and 6-inch diameter waterlines with approximately 2,400 linear feet of 8-inch diameter waterlines and three fire hydrants and the installation of four additional fire hydrants; and

WHEREAS, the City Council has determined that the proposed action is an “Unlisted Action” as defined under SEQR; and

WHEREAS, on June 23, 2022, the City Council notified the Involved and Interested Agencies of its intention to act as Lead Agency for this project and circulated Part 1 of the short Environmental Assessment Form; and

WHEREAS, comments received on the project have been addressed in Part 2 of the Environmental Assessment Form. The City will continue to work with Federal, State and local agencies until all necessary permits and approvals have been obtained; and

WHEREAS, the City Council has considered the Environmental Record prepared for this action, including any comments received from the Involved Agencies, and the proposed Negative Declaration.

NOW, THEREFORE, BE IT RESOLVED, the City Council declares that it will serve as Lead Agency for the Jackson Street Water System Improvements Project. The City Council, in its capacity of Lead Agency, has caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action described above; and

BE IT FURTHER RESOLVED, The City Council declares that, based on the Environmental Record which has been prepared, the project will result in no major impacts and, therefore, will not cause significant damage to the environment. A Negative Declaration under SEQR is therefore issued for this project.

Seconded by Councilmember Schmidt and on roll call approved 9-0.

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MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilmember Pacino

WHEREAS, Article 7, Section 105(1)(h), of the Public Officer’s Law permits the legislative body of a municipality to enter into Executive Session to discuss “...the proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof...”and;

WHEREAS, Article 7, Section 105(1)(f), of the Public Officer’s Law permits the legislative body of a municipality to enter into Executive Session to discuss “...the medical, financial, credit or employment history of a particular person or corporation, or matters leading to

the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation...”and;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia, that upon approval of this Motion, the City Council does hereby enter into Executive Session.

Seconded by Councilmember Viele and on roll call approved 9-0. Council entered executive session at 8:23pm and exited at 8:59pm .

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Meeting adjourned at 9:001PM.

Respectfully submitted,

**Heidi J Parker
Clerk-Treasurer**